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Fifty-ninth session
Third Committee
Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Afghanistan, Azerbaijan, Bangladesh, Belarus, Bosnia and Herzegovina, Chile, Costa Rica, Croatia, Democratic Republic of the Congo, Georgia, Kyrgyzstan, Libyan Arab Jamahiriya, Pakistan, Panama, Qatar, Saudi Arabia, Senegal, Serbia and Montenegro, Sudan and Ukraine: draft resolution

Missing persons

The General Assembly,

Guided by the purposes, principles and provisions of the Charter of the United Nations,

Guided also by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949[1] and the Additional Protocols thereto, of 1977,[2] as well as international standards of human rights, in particular the Universal Declaration of Human Rights,[3] the International Covenant on Economic, Social and Cultural Rights,[4] the International Covenant on Civil and Political Rights,[4] the Convention on the Rights of the Child[5] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[6]

Recalling its resolution 57/207 of 18 December 2002 and Commission on Human Rights resolutions 2002/60 of 25 April 2002[7] and 2004/50 of 20 April 2004,[8]

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[1] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[2] Ibid., vol. 1125, Nos. 17512 and 17513.
[3] Resolution 217 A (III).
[4] See resolution 2200 A (XXI), annex.
[5] Resolution 44/25, annex.
[6] A/CONF.157/24 (Part I), chap. III.
[7] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.
[8] Ibid., *2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

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Noting with deep concern that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

Recognizing that great technological progress has been achieved in the field of DNA forensic sciences with regard to missing persons, such as the work done by the International Commission on Missing Persons, based in Sarajevo, which could significantly assist efforts to identify missing persons from other conflict areas in the world,

Noting in this regard that the issue of persons reported missing in connection with international armed conflicts, in particular those who are victims of serious violations of international humanitarian law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts,

Welcoming the convening in Geneva, from 19 to 21 February 2003, by the International Committee of the Red Cross of the International Conference of Governmental and Non-Governmental Experts on "The missing: action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families" and its observations on and recommendations for addressing the problem of missing persons and of their families,[9]

Welcoming also the undertakings by the participants at the twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, through their adoption of the Agenda for Humanitarian Action, in particular its general objective 1, on respecting and restoring the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families,

1. *Urges* States strictly to observe and respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 1949[1] and, for States Parties, in the Additional Protocols thereto, of 1977;[2]

2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and to account for persons reported missing as a result of such a situation;

3. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

4. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for the persons who have been reported missing by an adverse party;

5. *Calls upon* States which are parties to an armed conflict to take immediate steps to determine the identity and fate of persons reported missing in connection with the armed conflict;

6. *Requests* States to pay the utmost attention to cases of children reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children;

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[9] See International Committee of the Red Cross, *28th International Conference of the Red Cross and Red Crescent, Geneva, 2-6 December 2003* (Geneva, 2004), resolution 1.

7. *Invites* States which are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all practical and coordination mechanisms that may be necessary, based on humanitarian considerations only;

8. *Urges* States and encourages intergovernmental and non-governmental organizations to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflicts and to provide appropriate assistance as requested by the States concerned;

9. *Invites* all relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflicts in their forthcoming reports to the General Assembly;

10. *Requests* the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations;

11. *Also requests* the Secretary-General to transmit the report requested by the Commission on Human Rights in its resolution 2004/50 of 20 April 2004 to the General Assembly at its sixty-first session;

12. *Decides* to remain seized of the matter at its sixty-first session.

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Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Algeria, Cuba, Democratic People's Republic of Korea, Ghana, Guinea-Bissau, Myanmar, Qatar and Viet Nam: draft resolution

Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity

The General Assembly,

Bearing in mind that among the purposes of the United Nations are those of developing friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and taking other appropriate measures to strengthen universal peace, as well as achieving international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Desirous of achieving further progress in international cooperation in promoting and encouraging respect for human rights and fundamental freedoms,

Considering that such international cooperation should be based on the principles embodied in international law, especially the Charter of the United Nations, as well as the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other relevant instruments,

Deeply convinced that United Nations action in this field should be based not only on a profound understanding of the broad range of problems existing in all societies but also on full respect for the political, economic and social realities of each of them, in strict compliance with the purposes and principles of the Charter

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.

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and for the basic purpose of promoting and encouraging respect for human rights and fundamental freedoms through international cooperation,

Recalling its previous resolutions in this regard,

Reaffirming the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues, as affirmed in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[3]

Affirming the importance of the objectivity, independence and discretion of the special rapporteurs and representatives on thematic issues and on countries, as well as of the members of the working groups, in carrying out their mandates,

Underlining the obligation that Governments have to promote and protect human rights and to carry out the responsibilities that they have undertaken under international law, especially the Charter, as well as various international instruments in the field of human rights,

1. *Reiterates* that, by virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect that right within the provisions of the Charter, including respect for territorial integrity;

2. *Reaffirms* that it is a purpose of the United Nations and the task of all Member States, in cooperation with the Organization, to promote and encourage respect for human rights and fundamental freedoms and to remain vigilant with regard to violations of human rights wherever they occur;

3. *Calls upon* all Member States to base their activities for the promotion and protection of human rights, including the development of further international cooperation in this field, on the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights[2] and other relevant international instruments, and to refrain from activities that are inconsistent with that international framework;

4. *Considers* that international cooperation in this field should make an effective and practical contribution to the urgent task of preventing mass and flagrant violations of human rights and fundamental freedoms for all and to the strengthening of international peace and security;

5. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms, as a legitimate concern of the world community, should be guided by the principles of non-selectivity, impartiality and objectivity and should not be used for political ends;

6. *Requests* all human rights bodies within the United Nations system, as well as the special rapporteurs and representatives, independent experts and working groups, to take duly into account the contents of the present resolution in carrying out their mandates;

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[3] A/CONF.157/24 (Part I), chap. III.

7. *Expresses its conviction* that an unbiased and fair approach to human rights issues contributes to the promotion of international cooperation as well as to the effective promotion, protection and realization of human rights and fundamental freedoms;

8. *Stresses*, in this context, the continuing need for impartial and objective information on the political, economic and social situations and events of all countries;

9. *Invites* Member States to consider adopting, as appropriate, within the framework of their respective legal systems and in accordance with their obligations under international law, especially the Charter, and international human rights instruments, the measures that they may deem appropriate to achieve further progress in international cooperation in promoting and encouraging respect for human rights and fundamental freedoms;

10. *Requests* the Commission on Human Rights to take duly into account the present resolution and to consider further proposals for the strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity;

11. *Takes note* of the report of the Secretary-General[4] and requests the Secretary-General to invite Member States and intergovernmental and non-governmental organizations to present further practical proposals and ideas that would contribute to the strengthening of United Nations action in the field of human rights, through the promotion of international cooperation based on the principles of non-selectivity, impartiality and objectivity, and to submit a comprehensive report on this question to the General Assembly at its sixtieth session;

12. *Decides* to consider this matter at its sixty-first session under the agenda item, entitled "Human rights questions".

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[4] A/59/327.

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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Austria, Belgium, Brazil, Canada, Chile, Cyprus, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Panama, Poland, Portugal, Slovakia, Slovenia, Sweden, Switzerland, Timor-Leste, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Recalling that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Recognizing that the respect for human rights, the respect for democracy and the respect for the rule of law are interrelated and mutually reinforcing,

Recalling its previous resolutions 57/219 of 18 December 2002 and 58/187 of 22 December 2003 as well as Commission on Human Rights resolutions 2003/68 of 25 April 2003[1] and 2004/87 of 21 April 2004,[2]

[1] See *Official Records of the Economic and Social Council, 2003, Supplement No. 3* (E/2003/23), chap. II, sect. A.
[2] See ibid., *2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

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Recalling also its resolution 48/141 of 20 December 1993 and, inter alia, the responsibility of the United Nations High Commissioner for Human Rights to promote and protect the effective enjoyment of all human rights,

Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,[3]

Noting the declaration on the issue of combating terrorism contained in the annex to Security Council resolution 1456 (2003) of 20 January 2003, in particular the statement that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law,

Noting also the declarations, statements and recommendations by a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism, in all their forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Deploring the suffering caused by terrorism to the victims and their families, and expressing its profound solidarity with them,

Deploring also occurrences of violations of human rights and fundamental freedoms in the context of the fight against terrorism,

Stressing that everyone is entitled to all the rights and freedoms recognized in the Universal Declaration of Human Rights[4] without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Reaffirms also* that States, in accordance with article 4 of the International Covenant on Civil and Political Rights,[5] are under the obligation to respect certain rights as non-derogable under any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations, as stated in General

[3] A/CONF.157/24 (Part I), chap. III, para. 17.

[4] Resolution 217 A (III).

[5] See resolution 2200 (XXI), annex.

Comment No. 29, on states of emergency, adopted by the Human Rights Committee on 24 July 2001;[6]

3. *Calls upon* States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

4. *Welcomes* the report of the Secretary-General submitted pursuant to resolution 58/187,[7] which expresses that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism;

5. *Takes note with appreciation* of the study of the United Nations High Commissioner for Human Rights submitted pursuant to resolution 58/187,[8] which concludes that the United Nations has been unable to address the compatibility of national counter-terrorism measures with international human rights obligations in a comprehensive and integrated way;

6. *Encourages* States to make available to relevant national authorities the "Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism" and to take into account the provisions established therein, and requests the High Commissioner to update and publish it periodically;

7. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

8. *Requests* all relevant special procedures and mechanisms of the Commission on Human Rights, as well as the United Nations human rights treaty bodies, to consider, within their mandates, the protection of human rights and fundamental freedoms in the context of measures to combat terrorism and to coordinate their efforts, as appropriate, in order to promote a consistent approach on this subject;

9. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission on Human Rights and the relevant comments and views of United Nations human rights treaty bodies;

10. *Welcomes* the appointment by the Commission on Human Rights of an independent expert on the question of protection of human rights and fundamental freedoms while countering terrorism, and encourages States to cooperate fully with him;

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[6] See HRI/GEN/1/Rev.6.

[7] A/59/404.

[8] A/59/428.

11. *Requests* the High Commissioner, making use of existing mechanisms, to continue:

(a) To examine the question of the protection of human rights and fundamental freedoms while countering terrorism, taking into account reliable information from all sources;

(b) To make general recommendations concerning the obligation of States to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism;

(c) To provide assistance and advice to States, upon their request, on the protection of human rights and fundamental freedoms while countering terrorism, as well as to relevant United Nations bodies;

12. *Requests* the independent expert to finalize the report mandated by Commission on Human Rights resolution 2004/87 for presentation through the High Commissioner to the sixty-first session of the Commission on Human Rights, and, in that regard, requests him to take into account the debate held during the fifty-ninth regular session of the General Assembly;

13. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Commission on Human Rights at its sixty-first session and to the General Assembly at its sixtieth session.

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Andorra, Australia, Austria, Canada, Denmark, Finland, France, Germany, Greece, Guatemala, Guinea-Bissau, Ireland, Latvia, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Panama, Peru, Poland, Republic of Korea, Romania, San Marino, Serbia and Montenegro, South Africa, Sweden, Switzerland, the former Yugoslav Republic of Macedonia and Timor-Leste: draft resolution

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Recalling its resolution 53/144 of 9 December 1998, by which it adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to that resolution, and reiterating the importance of the Declaration and its wide dissemination,

Recalling all previous resolutions on this subject, in particular its resolution 58/178 of 22 December 2003 and Commission on Human Rights resolution 2004/68 of 21 April 2004,[1]

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

Gravely concerned by the continuing high level of human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and that in a number of countries in all

[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (A/2004/23), chap. II, sect. A.

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regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this has a negative impact on their work and safety,

Recalling that human rights defenders are entitled to equal protection of the law, and deeply concerned about any abuse of civil or criminal proceedings against them because of their activities for the promotion and protection of human rights and fundamental freedoms,

Concerned by the considerable number of communications received by the Special Representative of the Secretary-General on human rights defenders that, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders,

Emphasizing the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms,

Recalling that, in accordance with article 4 of the International Covenant on Civil and Political Rights,[2] certain rights are recognized as non-derogable in any circumstances and that any measures derogating from other provisions of the Covenant must be in accordance with that article in all cases, and in this regard recalling General Comment No. 29 on derogations from the provisions of the Covenant during a state of emergency, adopted by the Human Rights Committee on 24 July 2001, which underlines the exceptional and temporary nature of any such derogations,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures have been misused to target human rights defenders or have hindered their work and safety in a manner contrary to international law,

Welcoming the significant work conducted by the Special Representative of the Secretary-General and the cooperation between the Special Representative and other special procedures of the Commission on Human Rights,

Welcoming also regional initiatives and the cooperation between international and regional mechanisms for the protection of human rights defenders, and encouraging further development in this regard,

Welcoming further the steps taken by some States towards adopting national policies and legislation for the protection of human rights defenders,

Recalling that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

Emphasizing the need for strong and effective measures for the protection of human rights defenders,

1. *Calls upon* all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by adopting legislative, administrative and other steps as may

[2] See resolution 2200 A (XXI), annex.

be necessary to ensure that the rights and freedoms referred to in the Declaration are guaranteed;

2. *Welcomes* the reports of the Special Representative of the Secretary-General on human rights defenders[3] and her contribution to the effective promotion of the Declaration and the improvement of the protection of human rights defenders worldwide;

3. *Encourages* all States to ensure and maintain an environment conducive to the work of human rights defenders;

4. *Condemns* all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world, and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;

5. *Calls upon* all States to take all necessary measures to ensure the protection of human rights defenders, at both the local and the national levels;

6. *Also calls upon* all States to ensure, protect and respect the freedom of expression and association of human rights defenders, including by ensuring that their organizations have the possibility to access funds and, where legal registration is required, by ensuring quick, easy and inexpensive procedures as well as transparent criteria for registration;

7. *Urges* States to ensure that any measures to combat terrorism and preserve national security comply with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of human rights defenders;

8. *Emphasizes* the importance of combating impunity, and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders;

9. *Urges* States to ensure that complaints from human rights defenders are investigated and addressed in a transparent, independent and publicly accountable manner;

10. *Urges* all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information in the fulfilment of her mandate upon request;

11. *Calls upon* Governments to respond favourably to the requests of the Special Representative to visit their countries, and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up to and implementation of her recommendations, so as to enable her to fulfil her mandate even more effectively;

12. *Urges* those Governments that have not yet responded to the communications transmitted to them by the Special Representative to answer without further delay;

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[3] E/CN.4/2001/94, E/CN.4/2002/106 and Add.1 and 2, E/CN.4/2003/104 and Add.1-4 and E/CN.4/2004/94 and Add.1-3; see also A/56/341, A/57/182, A/58/280 and A/59/401.

13. *Invites* Governments to translate the Declaration into national languages and to take measures to improve the dissemination of and the training in it in order to enable officials, institutions, agencies and authorities to observe the provisions of the Declaration;

14. *Encourages* States to train judiciaries at all levels in the Declaration and to facilitate appropriate forms of interaction between them and human rights defenders in order to promote better understanding and respect for the work of human rights defenders;

15. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;

16. *Invites* relevant United Nations bodies, including at the country level, within their mandates and working in cooperation with States, to give due consideration to the Declaration and to the reports of the Special Representative, and requests the Office of the United Nations High Commissioner for Human Rights to draw the attention of all relevant United Nations bodies, including at the country level, to the reports of the Special Representative;

17. *Encourages* all Governments to investigate promptly urgent appeals and allegations brought to their attention by the Special Representative and to take timely action to prevent violations of the rights of human rights defenders;

18. *Requests* the Secretary-General to provide the Special Representative with all necessary human, material and financial resources in order to enable her to continue to carry out her mandate effectively, including through country visits;

19. *Requests* the Special Representative to continue to report on her activities to the General Assembly and to the Commission on Human Rights in accordance with her mandate;

20. *Decides* to consider this question at its sixtieth session under the item entitled "Human rights questions".

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Andorra, Argentina, Australia, Austria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Georgia, Finland, France, Germany, Greece, Guatemala, Guinea-Bissau, Hungary, Iceland, Ireland, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, Republic of Korea, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: revised draft resolution

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Recalling its resolution 53/144 of 9 December 1998, by which it adopted by consensus the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to that resolution, and reiterating the importance of the Declaration and its wide dissemination,

Recalling all previous resolutions on this subject, in particular its resolution 58/178 of 22 December 2003 and Commission on Human Rights resolution 2004/68 of 21 April 2004,[1]

Noting with deep concern that, in many countries, persons and organizations engaged in promoting and defending human rights and fundamental freedoms are facing threats, harassment and insecurity as a result of those activities,

[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

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Gravely concerned by the continuing high level of human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world and that in a number of countries in all regions of the world, impunity for threats, attacks and acts of intimidation against human rights defenders persists and that this has a negative impact on their work and safety,

Recalling that human rights defenders are entitled to equal protection of the law, and deeply concerned about any abuse of civil or criminal proceedings against them because of their activities for the promotion and protection of human rights and fundamental freedoms,

Concerned by the considerable number of communications received by the Special Representative of the Secretary-General on human rights defenders that, together with the reports submitted by some of the special procedure mechanisms, indicate the serious nature of the risks faced by human rights defenders,

Emphasizing the important role that individuals, non-governmental organizations and groups play in the promotion and protection of human rights and fundamental freedoms,

Recalling that, in accordance with article 4 of the International Covenant on Civil and Political Rights,[2] certain rights are recognized as non-derogable in any circumstances and that any measures derogating from other provisions of the Covenant must be in accordance with that article in all cases, and underlining the exceptional and temporary nature of any such derogations, as stated in General Comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001,

Gravely concerned that, in some instances, national security and counter-terrorism legislation and other measures have been misused to target human rights defenders or have hindered their work and safety in a manner contrary to international law,

Acknowledging the significant work conducted by the Special Representative of the Secretary-General, and welcoming the cooperation between the Special Representative and other special procedures of the Commission on Human Rights,

Welcoming regional initiatives for the promotion and protection of human rights and the cooperation between international and regional mechanisms for the protection of human rights defenders, and encouraging further development in this regard,

Welcoming also the steps taken by some States towards adopting national policies and legislation for the protection of human rights defenders,

Recalling that the primary responsibility for promoting and protecting human rights rests with the State, and noting with deep concern that the activities of some non-State actors pose a major threat to the security of human rights defenders,

Emphasizing the need for strong and effective measures for the protection of human rights defenders,

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[2] See resolution 2200 A (XXI), annex.

1. *Calls upon* all States to promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, including by taking, as appropriate, practical steps to that end;

2. *Welcomes* the reports of the Special Representative of the Secretary-General on human rights defenders[3] and her contribution to the effective promotion of the Declaration and the improvement of the protection of human rights defenders worldwide;

3. *Encourages* all States to ensure and maintain an environment conducive to the work of human rights defenders;

4. *Condemns* all human rights violations committed against persons engaged in promoting and defending human rights and fundamental freedoms around the world, and urges States to take all appropriate action, consistent with the Declaration and all other relevant human rights instruments, to eliminate such human rights violations;

5. *Calls upon* all States to take all necessary measures to ensure the protection of human rights defenders, at both the local and the national levels;

6. *Also calls upon* all States to ensure, protect and respect the freedom of expression and association of human rights defenders and, where registration is required, to facilitate registration, including through the establishment of effective and transparent criteria and non-discriminatory procedures under domestic law;

7. *Urges* States to ensure that any measures to combat terrorism and preserve national security comply with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of human rights defenders;

8. *Emphasizes* the importance of combating impunity, and in this regard urges States to take appropriate measures to address the question of impunity for threats, attacks and acts of intimidation against human rights defenders;

9. *Urges* States to ensure that complaints from human rights defenders are investigated and addressed in a transparent, independent and accountable manner;

10. *Urges* all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information in the fulfilment of her mandate upon request;

11. *Calls upon* Governments to give serious consideration to responding favourably to the requests of the Special Representative to visit their countries, and urges them to enter into a constructive dialogue with the Special Representative with respect to the follow-up to and implementation of her recommendations, so as to enable her to fulfil her mandate even more effectively;

12. *Urges* those Governments that have not yet responded to the communications transmitted to them by the Special Representative to answer without further delay;

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[3] E/CN.4/2001/94, E/CN.4/2002/106 and Add.1 and 2, E/CN.4/2003/104 and Add.1-4 and E/CN.4/2004/94 and Add.1-3; see also A/56/341, A/57/182, A/58/280 and A/59/401.

13. *Invites* Governments to translate the Declaration into national languages and to take measures to improve its dissemination;

14. *Encourages* States to promote awareness and training in regard to the Declaration in order to enable officials, agencies, authorities and the judiciary to observe the provisions of the Declaration and thus to promote better understanding and respect for human rights defenders;

15. *Requests* all concerned United Nations agencies and organizations, within their mandates, to provide all possible assistance and support to the Special Representative in the implementation of her programme of activities;

16. *Invites* relevant United Nations bodies, including at the country level, within their mandates and working in cooperation with States, to give due consideration to the Declaration and to the reports of the Special Representative, and requests the Office of the United Nations High Commissioner for Human Rights to draw the attention of all relevant United Nations bodies, including at the country level, to the reports of the Special Representative;

17. *Encourages* all Governments to investigate expeditiously urgent appeals and allegations brought to their attention by the Special Representative and to take timely action to prevent violations of the rights of human rights defenders;

18. *Requests* the Secretary-General to provide the Special Representative with all necessary human, material and financial resources in order to enable her to continue to carry out her mandate effectively, including through country visits;

19. *Requests* the Special Representative to continue to report on her activities to the General Assembly and to the Commission on Human Rights in accordance with her mandate;

20. *Decides* to consider this question at its sixtieth session under the item entitled "Human rights questions".

United Nations A/C.3/59/L.46

General Assembly

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Fifty-ninth session
Third Committee
Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Zimbabwe

The General Assembly,

Reaffirming that all States have the obligation to promote and protect human rights and fundamental freedoms, in accordance with the Charter of the United Nations, the Universal Declaration on Human Rights[1] and the regional and international human rights instruments to which they are party,

Recognizing the past traditions of Zimbabwe of democratic debate and civil society activism, and reaffirming that the promotion and protection of civil, political, economic, social and cultural rights in Zimbabwe and the holding of free and fair elections is essential for the stability and security of the country and the region,

Recognizing also the severe challenges facing Zimbabwe, including the HIV/AIDS pandemic and the ongoing economic and humanitarian crisis,

Recognizing further the inequitable distribution of land ownership which existed in Zimbabwe at independence and the ongoing need for land reform, implemented in an orderly manner and with due regard to human rights and the rule of law, to achieve a more equitable distribution of resources among the people of Zimbabwe,

[1] Resolution 217 A (III).

04-58801 (E) 041104

Welcoming the efforts made by African countries to fulfil their commitments in the implementation of the New Partnership for Africa's Development to deepen democracy, human rights, good governance and sound economic management,

Welcoming also the decision of the Southern African Development Community to promote the goals and values of the New Partnership and to work with the organization to harmonize their efforts in furthering these goals,

Welcoming further the adoption by the Southern African Development Community of principles and guidelines on elections and the acceptance of them by Zimbabwe,

1. *Expresses its concern* that the conditions do not exist in Zimbabwe for holding free and fair elections in accordance with the electoral guidelines of the Southern African Development Community, the commitments of the African Union and obligations under international human rights instruments;

2. *Also expresses its concern* about restrictions in Zimbabwe on the freedom of members of parliament and parliamentary candidates and independent civil society and human rights defenders to operate without fear of harassment or intimidation, including proposed legislation, inconsistent with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,[2] which would further constrain non-governmental organizations;

3. *Urges* the Government of Zimbabwe to take all appropriate measures, including changes to laws, to establish the conditions for, and to hold, free and fair elections, in accordance with the electoral guidelines of the Southern African Development Community, the commitments of the African Union and obligations under international human rights instruments;

4. *Encourages* the Government of Zimbabwe to invite independent international observers in good time for its parliamentary elections in 2005, including observers from organizations in which it is a member, notably the Southern African Development Community, the African Union and the United Nations;

5. *Underlines its deep concern* at the serious violations of human rights by the Government of Zimbabwe, including the occurrence of torture, ill-treatment, unlawful detention and extrajudicial executions, as well as the serious restrictions on freedom of expression and opinion, including freedom of the press, and on the independence of the judiciary;

6. *Urges* the Government of Zimbabwe to take all necessary measures to ensure that human rights are promoted and protected and that the rule of law is respected in Zimbabwe;

7. *Also urges* the Government of Zimbabwe to implement its obligations under the International Covenants on Human Rights,[3] the Convention on the Elimination of All Forms of Discrimination Against Women,[4] the African Charter of Human and Peoples' Rights and other human rights treaties to which it is party, to

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[2] Resolution 53/144, annex.

[3] Resolution 2200 A (XXI), annex.

[4] Resolution 34/180, annex.

ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[5] as soon as possible, and to cooperate fully with all relevant special mechanisms of the Commission on Human Rights;

8. *Calls upon* the Government of Zimbabwe to seek the assistance of the United Nations High Commissioner for Human Rights and to consider inviting relevant thematic rapporteurs to assess the situation in the country;

9. *Urges* the Government of Zimbabwe to respond to the report of the African Commission on Human and Peoples' Rights;

10. *Also urges* the Government of Zimbabwe not to obstruct international efforts to assess food security and other humanitarian challenges and to ensure that food aid and humanitarian aid can be delivered in a safe and unhindered manner, on the basis of need alone and without the imposition of any political condition.

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[5] Resolution 39/46, annex.

United Nations A/C.3/59/L.47

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Fifty-ninth session
Third Committee
Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Algeria, Burkina Faso, Cameroon, Congo, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Ecuador, El Salvador, Islamic Republic of Iran, Kenya, Mauritania, Namibia, Nigeria, Russian Federation, Swaziland, Syrian Arab Republic, Viet Nam and Zimbabwe: draft resolution

Promotion of a democratic and equitable international order

The General Assembly,

Recalling its resolution 57/213 of 18 December 2002, and taking note of Commission on Human Rights resolution 2004/64 of 21 April 2004,[1]

Reaffirming the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations, other instruments relating to human rights and international law,

Affirming that the enhancement of international cooperation for the promotion and protection of all human rights should continue to be carried out in full conformity with the purposes and principles of the Charter and international law as set forth in Articles 1 and 2 of the Charter and, inter alia, with full respect for sovereignty, territorial integrity, political independence, the non-use of force or the threat of force in international relations and non-intervention in matters that are essentially within the domestic jurisdiction of any State,

Recalling the Preamble to the Charter, in particular the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small,

[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

Reaffirming that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights[2] can be fully realized,

Reaffirming also the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good neighbourliness, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Considering the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, the rule of law, pluralism, development, better standards of living and solidarity,

Considering also that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Emphasizing that democracy is not only a political concept but that it also has economic and social dimensions,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development,

Noting with concern that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion,

Underlining the fact that it is imperative for the international community to ensure that globalization becomes a positive force for all the world's people, and that only through broad and sustained efforts, based on common humanity in all its diversity, can globalization be made fully inclusive and equitable,

Stressing that efforts to make globalization fully inclusive and equitable must include policies and measures, at the global level, that correspond to the needs of developing countries and countries with economies in transition and are formulated and implemented with their effective participation,

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[2] Resolution 217 A (III).

Having listened to the peoples of the world and recognizing their aspirations to justice, to equality of opportunity for all, to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life,

Resolved to take all measures within its power to secure a democratic and equitable international order,

1. *Affirms* that everyone is entitled to a democratic and equitable international order;

2. *Also affirms* that a democratic and equitable international order fosters the full realization of all human rights for all;

3. *Calls upon* all Member States to fulfil their commitment expressed in Durban, South Africa, during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to maximize the benefits of globalization through, inter alia, the strengthening and enhancement of international cooperation to increase equality of opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies, and increased intercultural exchange through the preservation and promotion of cultural diversity,[3] and reiterates that only through broad and sustained efforts to create a shared future based upon our common humanity and all its diversity can globalization be made fully inclusive and equitable;

4. *Affirms* that a democratic and equitable international order requires, inter alia, the realization of the following:

(a) The right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development;

(b) The right of peoples and nations to permanent sovereignty over their natural wealth and resources;

(c) The right of every human person and all peoples to development;

(d) The right of all peoples to peace;

(e) The right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States;

(f) Solidarity, as a fundamental value, by virtue of which global challenges must be managed in a way that distributes costs and burdens fairly, in accordance with basic principles of equity and social justice, and ensures that those who suffer or benefit the least receive help from those who benefit the most;

(g) The promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principles of full and equal participation in their respective decision-making mechanisms;

[3] See A/CONF.189/12 and Corr.1, chap. I.

(h) The right to equitable participation of all, without any discrimination, in domestic and global decision-making;

(i) The principle of equitable regional and gender-balanced representation in the composition of the staff of the United Nations system;

(j) The promotion of a free, just, effective and balanced international information and communications order, based on international cooperation for the establishment of a new equilibrium and greater reciprocity in the international flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(k) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(l) The right of every person and all peoples to a healthy environment;

(m) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in economic, commercial and financial international relations;

(n) The enjoyment by everyone of ownership of the common heritage of mankind;

(o) The shared responsibility of the nations of the world for managing worldwide economic and social development, as well as threats to international peace and security that should be exercised multilaterally;

5. *Stresses* the importance of preserving the rich and diverse nature of the international community of nations and peoples, as well as respect for national and regional particularities and various historical, cultural and religious backgrounds in the enhancement of international cooperation in the field of human rights;

6. *Also stresses* that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and reaffirms that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

7. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

8. *Reaffirms* that all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective

disarmament measures are used for comprehensive development, in particular that of the developing countries;

9. *Recalls* the proclamation by the General Assembly of its determination to work urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems, which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries, and ensure steadily accelerating economic and social development and peace and justice for present and future generations;[4]

10. *Reaffirms* that the international community should devise ways and means to remove the current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting therefrom throughout the world;

11. *Urges* States to continue their efforts, through enhanced international cooperation, towards the promotion of a democratic and equitable international order;

12. *Requests* the Commission on Human Rights, the human rights treaty bodies, the Office of the United Nations High Commissioner for Human Rights and the mechanisms of the Commission on Human Rights and the Subcommission on the Promotion and Protection of Human Rights to pay due attention, within their respective mandates, to the present resolution and to make contributions towards its implementation;

13. *Calls upon* the Office of the High Commissioner to build upon the issue of the promotion of a democratic and equitable international order, to take into account the present resolution in the preparations and development of the expert seminar to examine the interdependence between democracy and human rights that it will convene in January 2003, and to invite all Governments, specialized agencies, United Nations funds and programmes and interested non-governmental organizations to attend that seminar;

14. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs, bodies and components, intergovernmental organizations, in particular the Bretton Woods institutions, and non-governmental organizations, and to disseminate it on the widest possible basis;

15. *Decides* to continue consideration of the matter at its sixty-first session under the agenda item entitled "Human rights questions".

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[4] See resolution 3201 (S-VI).

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General Assembly

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Fifty-ninth session
Third Committee
Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Sudan

The General Assembly,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various instruments in this field, as well as to respect and ensure respect for international humanitarian law,

Expressing its firm belief that a peaceful settlement of the conflicts in the Sudan, which is a responsibility of all parties to the peace talks, will greatly contribute to respect for human rights in the Sudan,

Expressing grave concern at the statements of the United Nations High Commissioner for Human Rights and the Special Adviser to the Secretary-General on the Prevention of Genocide to the Security Council on 30 September 2004 that crimes against humanity, war crimes and breaches of the laws of war had probably occurred on a large and systematic scale in the Darfur region,

Taking note of the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions on her mission to the Sudan,[1] carried out from 1 to 13 June 2004,

Taking note also of Security Council resolutions 1547 (2004), 1556 (2004) and 1564 (2004), the recommendations of the Special Representative of the Secretary-

[1] E/CN.4/2005/7/Add.2.

04-58845 (E) 041104

General for the Sudan[2] and the reports of the Secretary-General to the Security Council on the Sudan,[3].

1. *Welcomes*:

(a) The leadership role and the engagement of the African Union, as illustrated by the efforts of the President of the African Union, the Chairperson of the African Union Commission and the Special Envoy of the African Union for Darfur, in addressing the situation in Darfur;

(b) The recommencement of the Intergovernmental Authority on Development peace talks in Kenya on 7 October 2004, the leadership role of the Intergovernmental Authority and the efforts of the Government of Kenya in mediating the talks between the Government of the Sudan and the Sudan People's Liberation Movement; and the recommitment of the parties to the prompt completion of the peace process;

(c) The continued efforts of the African Union to facilitate the peace talks concerning Darfur between the Government of the Sudan and the Sudan Liberation Movement and the Justice and Equality Movement, as well as the recommencement of the peace talks on 21 October 2004;

(d) The visit to the Sudan in August 2004 of the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan, who was appointed in July 2004 in accordance with Commission on Human Rights decision 2004/128 of 23 April 2004;[4]

(e) The establishment and immediate dispatch of an international commission of inquiry by the Secretary-General, upon the request of the Security Council, in order to immediately investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(f) The expansion of the Office of the United Nations High Commissioner for Human Rights in the Sudan to include a monitoring role aimed at improving respect for human rights and humanitarian law and assisting in national capacity-building in the area of the promotion and protection of human rights, including an initial increase in the number of human rights monitors in Darfur from eight to at least sixteen;

(g) The work of United Nations agencies and other international organizations operating in the Sudan and Chad and their efforts to meet the protection and assistance needs of the crisis-affected populations;

(h) The visits to the Sudan of the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Special Adviser to the Secretary-General on the Prevention of Genocide and the Special Rapporteur of the Commission on Human Rights on violence against women in

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[2] See S/PV.5050.

[3] S/2004/453, S/2004/703, S/2004/763, and S/2004/787.

[4] To be issued as *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. B.

September 2004, as well as the visit of the Representative of the Secretary-General for Internally Displaced Persons;

(i) The fact-finding mission to Darfur of the African Commission on Human and People's Rights in July 2004;

(j) The accession of the Government of the Sudan to the Convention on the Prevention and Punishment of the Crime of Genocide;

2. *Reminds* the Government of the Sudan of its obligations to prevent and punish any crime of genocide;

3. *Expresses grave concern* at:

(a) The widespread and grave violations of human rights and international humanitarian law in Darfur and ongoing atrocities committed against civilians in Darfur, including forced displacement and arbitrary executions;

(b) The continuous violations of human rights throughout the Sudan, within and outside the framework of the conflicts, in particular the occurrence of arbitrary arrests and detentions, forced or involuntary disappearances and torture and other cruel, inhuman or degrading forms of treatment or punishment;

(c) Violations of the rights of women and girls, inter alia, through sexual violence, including rape and its use as a weapon of war, as well as through female genital mutilation and discrimination both in law and in practice;

(d) The ongoing recruitment and use of child soldiers by all parties to the conflict contrary to international law;

(e) The use of the death penalty contrary to the obligations assumed by the Government of the Sudan under the relevant provisions of the International Covenant on Civil and Political Rights[5] and other human rights instruments, including the imposition of death sentences without legal representation and summary executions;

(f) The restrictions on freedom of thought, conscience, religion and belief, the restrictions on freedom of association, assembly, opinion and expression, the lack of political pluralism and restrictions on political freedom;

4. *Calls upon* the Government of the Sudan:

(a) To take all measures necessary to actively promote and protect human rights and international humanitarian law and to respect the rule of law throughout the Sudan, to implement its obligations under the International Covenants on Human Rights[5] and other human rights treaties to which it is a party and to implement its obligations under the Geneva Conventions of 12 August 1949 for the protection of victims of war[6] and other relevant instruments of international humanitarian law;

(b) To immediately take all steps necessary to stop all violence and atrocities, including sexual violence against women and girls, to ensure the protection of civilians in Darfur and to cease all support, including the provision of supplies, to the Janjaweed militias;

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[5] Resolution 2200 A (XXI), annex.

[6] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

(c) To end the climate of impunity in Darfur by identifying and bringing to justice all those responsible, including members of popular defence forces and Janjaweed militias, for the widespread abuses of human rights and violations of international humanitarian law;

(d) To create a secure environment that would facilitate the return of displaced persons, and to ensure that all returns by internally displaced persons and refugees are voluntary and carried out in conditions of safety and dignity;

(e) To fulfil immediately all of the commitments it made in the joint communiqué issued by the Government of the Sudan and the United Nations on 3 July 2004;[7]

(f) To implement the recommendations listed in the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions on her mission to the Sudan;[1]

(g) To fulfil its commitments to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[8] and to sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women[9] and the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;[10]

(h) To hold those responsible for violations of human rights and international humanitarian law, as well as crimes against humanity, accountable through appropriate national and international judicial mechanisms;

(i) To promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;[11]

(j) To allow human rights and civil society organizations to register and operate freely throughout the country;

(k) To implement judicial reform so as to apply constitutional guarantees for fair trials throughout the country;

5. *Calls upon* the parties to the conflict in Darfur:

(a) To provide all necessary support to and cooperate fully with the mission of the African Union in Darfur;

(b) To provide all necessary support to and cooperate fully with the mission of the Special Representative of the Secretary-General for the Sudan;

(c) To provide all necessary support to and cooperate fully with the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan and the Office of the United Nations High Commissioner for Human Rights in the Sudan in their monitoring role aimed at improving respect for

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[7] S/2004/635, annex.
[8] Resolution 39/46, annex.
[9] Resolution 34/180, annex.
[10] Resolution 54/203, annexes I and II.
[11] Resolution 53/144, annex.

human rights and humanitarian law and assisting in national capacity-building in the area of the promotion and protection of human rights;

(d) To provide all necessary support to and cooperate fully with the International Commission of Inquiry for Darfur established by the Secretary-General pursuant to Security Council resolution 1564 (2004) in order to facilitate its investigations concerning violations of international humanitarian law and human rights law in Darfur, and to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(e) To provide the necessary support to and cooperate fully with all international agencies and humanitarian organizations in order to ensure immediate, full, safe and unhindered access in Darfur and elsewhere in the Sudan aimed at delivering humanitarian assistance to and promoting the protection of all civilians in need;

(f) To cease all violence, cooperate with international humanitarian relief and monitoring efforts and ensure compliance with international humanitarian law, and to facilitate the safety and security of humanitarian workers;

6. *Urges*:

(a) The Government of the Sudan, the Sudan Liberation Movement and the Justice and Equality Movement to respect and fully implement in Darfur the ceasefire agreement signed at N'Djamena on 8 April 2004 and to reach a political settlement to the dispute in Darfur;

(b) The Government of the Sudan and the Sudan People's Liberation Movement to conclude expeditiously the Intergovernmental Authority on Development peace process;

(c) All parties in the Sudan to put an immediate end to the recruitment and use of child soldiers and children in armed conflict contrary to international law, bearing in mind that, under the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, children under 18 years of age are entitled to special protection;

7. *Calls upon* the international community to expand its support for activities aimed at improving respect for human rights and humanitarian law, especially the mission of the African Union, to continue its support for the peace process in the Sudan and continue to monitor closely the human rights situation in the Sudan.

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Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Sudan

The General Assembly,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various instruments in this field, as well as to respect and ensure respect for international humanitarian law,

Expressing its firm belief that a peaceful settlement of the conflicts in the Sudan, which is a responsibility of all parties to the peace talks, will greatly contribute to respect for human rights in the Sudan,

Expressing grave concern at the statements of the United Nations High Commissioner for Human Rights and the Special Adviser to the Secretary-General on the Prevention of Genocide to the Security Council on 30 September 2004 that crimes against humanity, war crimes and breaches of the laws of war had probably occurred on a large and systematic scale in the Darfur region,

Taking note of the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions on her mission to the Sudan,[1] carried out from 1 to 13 June 2004,

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* Reissued for technical reasons.

[1] E/CN.4/2005/7/Add.2.

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Taking note also of Security Council resolutions 1547 (2004), 1556 (2004) and 1564 (2004), the recommendations of the Special Representative of the Secretary-General for the Sudan[2] and the reports of the Secretary-General to the Security Council on the Sudan,[3].

1. *Welcomes*:

(a) The leadership role and the engagement of the African Union, as illustrated by the efforts of the President of the African Union, the Chairperson of the African Union Commission and the Special Envoy of the African Union for Darfur, in addressing the situation in Darfur;

(b) The recommencement of the Intergovernmental Authority on Development peace talks in Kenya on 7 October 2004, the leadership role of the Intergovernmental Authority and the efforts of the Government of Kenya in mediating the talks between the Government of the Sudan and the Sudan People's Liberation Movement; and the recommitment of the parties to the prompt completion of the peace process;

(c) The continued efforts of the African Union to facilitate the peace talks concerning Darfur between the Government of the Sudan and the Sudan Liberation Movement and the Justice and Equality Movement, as well as the recommencement of the peace talks on 21 October 2004;

(d) The visit to the Sudan in August 2004 of the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan, who was appointed in July 2004 in accordance with Commission on Human Rights decision 2004/128 of 23 April 2004;[4]

(e) The establishment and immediate dispatch of an international commission of inquiry by the Secretary-General, upon the request of the Security Council, in order to immediately investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(f) The expansion of the Office of the United Nations High Commissioner for Human Rights in the Sudan to include a monitoring role aimed at improving respect for human rights and humanitarian law and assisting in national capacity-building in the area of the promotion and protection of human rights, including an initial increase in the number of human rights monitors in Darfur from eight to at least sixteen within one month;

(g) The work of United Nations agencies and other international organizations operating in the Sudan and Chad and their efforts to meet the protection and assistance needs of the crisis-affected populations;

(h) The visits to the Sudan of the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Special Adviser to the Secretary-General on the Prevention of Genocide and the Special

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[2] See S/PV.5050.

[3] S/2004/453, S/2004/703, S/2004/763 and S/2004/787.

[4] To be issued as *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. B.

Rapporteur of the Commission on Human Rights on violence against women in September 2004, as well as the visit of the Representative of the Secretary-General for Internally Displaced Persons;

(i) The fact-finding mission to Darfur of the African Commission on Human and People's Rights in July 2004;

(j) The accession of the Government of the Sudan to the Convention on the Prevention and Punishment of the Crime of Genocide,[5] and reminds the Government of the Sudan of its obligations to prevent and punish any crime of genocide;

2. *Expresses grave concern* at:

(a) The widespread and grave violations of human rights and international humanitarian law in Darfur and ongoing atrocities committed against civilians in Darfur, including forced displacement and arbitrary executions;

(b) The continuous violations of human rights throughout the Sudan, within and outside the framework of the conflicts, in particular the occurrence of arbitrary arrests and detentions, forced or involuntary disappearances and torture and other cruel, inhuman or degrading forms of treatment or punishment;

(c) Violations of the rights of women and girls, inter alia, through sexual violence, including rape and its use as a weapon of war, as well as through female genital mutilation and discrimination both in law and in practice;

(d) The ongoing recruitment and use of child soldiers by all parties to the conflict contrary to international law;

(e) The use of the death penalty contrary to the obligations assumed by the Government of the Sudan under the relevant provisions of the International Covenant on Civil and Political Rights[6] and other human rights instruments, including the imposition of death sentences without legal representation and summary executions;

(f) The restrictions on freedom of thought, conscience, religion and belief, the restrictions on freedom of association, assembly, opinion and expression, the lack of political pluralism and restrictions on political freedom;

3. *Calls upon* the Government of the Sudan:

(a) To take all measures necessary to actively promote and protect human rights and international humanitarian law and to respect the rule of law throughout the Sudan, to implement its obligations under the International Covenants on Human Rights and other human rights treaties to which it is a party and to implement its obligations under the Geneva Conventions of 12 August 1949 for the protection of victims of war[7] and other relevant instruments of international humanitarian law;

(b) To immediately take all steps necessary to stop all violence and atrocities, including sexual violence against women and girls, to ensure the protection of civilians in Darfur and to cease all support, including the provision of supplies, to the Janjaweed militias;

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[5] Resolution 260 A (III).

[6] Resolution 2200 A (XXI), annex.

[7] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

(c) To end the climate of impunity in Darfur by identifying and bringing to justice all those responsible, including members of popular defence forces and Janjaweed militias, for the widespread abuses of human rights and violations of international humanitarian law;

(d) To create a secure environment that would facilitate the return of displaced persons, and to ensure that all returns by internally displaced persons and refugees are voluntary and carried out in conditions of safety and dignity;

(e) To fulfil immediately all of the commitments it made in the joint communiqué issued by the Government of the Sudan and the United Nations on 3 July 2004;[8]

(f) To implement the recommendations listed in the report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions on her mission to the Sudan;[1]

(g) To fulfil its commitments to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[9] and to sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women[10] and the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;[11]

(h) To hold those responsible for violations of human rights and international humanitarian law, as well as crimes against humanity, accountable through appropriate national and international judicial mechanisms;

(i) To promote and give full effect to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;[12]

(j) To allow human rights and civil society organizations to register and operate freely throughout the country;

(k) To implement judicial reform so as to apply constitutional guarantees for fair trials throughout the country;

4. *Calls upon* the parties to the conflict in Darfur:

(a) To provide all necessary support to and cooperate fully with the mission of the African Union in Darfur;

(b) To provide all necessary support to and cooperate fully with the mission of the Special Representative of the Secretary-General for the Sudan;

(c) To provide all necessary support to and cooperate fully with the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan and the Office of the United Nations High Commissioner for Human Rights in the Sudan in their monitoring role aimed at improving respect for

[8] S/2004/635, annex.
[9] Resolution 39/46, annex.
[10] Resolution 34/180, annex.
[11] Resolution 54/203, annexes I and II.
[12] Resolution 53/144, annex.

human rights and humanitarian law and assisting in national capacity-building in the area of the promotion and protection of human rights;

(d) To provide all necessary support to and cooperate fully with the International Commission of Inquiry for Darfur established by the Secretary-General pursuant to Security Council resolution 1564 (2004) in order to facilitate its investigations concerning violations of international humanitarian law and human rights law in Darfur, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(e) To provide the necessary support to and cooperate fully with all international agencies and humanitarian organizations in order to ensure immediate, full, safe and unhindered access in Darfur and elsewhere in the Sudan aimed at delivering humanitarian assistance to and promoting the protection of all civilians in need;

(f) To cease all violence, cooperate with international humanitarian relief and monitoring efforts and ensure compliance with international humanitarian law, and to facilitate the safety and security of humanitarian workers;

5. *Urges*:

(a) The Government of the Sudan, the Sudan Liberation Movement and the Justice and Equality Movement to respect and fully implement in Darfur the ceasefire agreement signed at N'Djamena on 8 April 2004 and to reach a political settlement to the dispute in Darfur;

(b) The Government of the Sudan and the Sudan People's Liberation Movement to conclude expeditiously the Intergovernmental Authority on Development peace process;

(c) All parties in the Sudan to put an immediate end to the recruitment and use of child soldiers and children in armed conflict contrary to international law, bearing in mind that, under the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, children under 18 years of age are entitled to special protection;

6. *Calls upon* the international community to expand its support for activities aimed at improving respect for human rights and humanitarian law, especially the mission of the African Union, to continue its support for the peace process in the Sudan and to continue to monitor closely the human rights situation in the Sudan.

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Fifty-ninth session
Third Committee
Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Myanmar

The General Assembly,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in the field,

Reaffirming its previous resolutions on the human rights situation in Myanmar, the most recent of which is resolution 58/247 of 23 December 2003, those of the Commission on Human Rights, the most recent of which is resolution 2004/61 of 21 April 2004,[1] and the conclusions of the special sitting of the Committee on the Application of Standards of the International Labour Conference of 5 June 2004,

Bearing in mind Security Council resolutions 1460 (2003) of 30 January 2003 and 1539 (2004) of 22 April 2004,

Recognizing that good governance, democracy, the rule of law and respect for human rights are essential to achieving sustainable development and economic growth,

[1] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

04-58869 (E) 041104

1. *Welcomes*:

(a) The report of the Secretary-General on the situation of human rights in Myanmar[2] and the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar;[3]

(b) The personal engagement of the Secretary-General with the situation in Myanmar and his statement made on 17 August 2004, in which he calls upon the Government of Myanmar to release Daw Aung San Suu Kyi immediately and to engage in substantive dialogue with the National League for Democracy and other political parties;

(c) The establishment by the Government of a "Committee for the prevention of military recruitment of underage children" and its discussions with the United Nations Children's Fund towards concluding a plan of action, and stresses the need for the Government to work closely with the Fund;

(d) The resumption of peace talks between the Government of Myanmar and the Karen National Union;

(e) The access to the eastern part of Myanmar of the International Committee of the Red Cross and the United Nations High Commissioner for Refugees;

2. *Expresses its grave concern* at:

(a) The ongoing systematic violation of human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, in particular as outlined in previous resolutions concerning the situation of human rights in Myanmar, the most recent of which are General Assembly resolution 58/247 and Commission on Human Rights resolution 2004/61;

(b) The events of 30 May 2003 and the continuing detention and house arrest of Daw Aung San Suu Kyi and members of the National League for Democracy;

(c) The fact that the Myanmar authorities have yet to implement recommendations contained in the aforementioned resolutions adopted by the General Assembly and the Commission on Human Rights;

(d) The fact that the Myanmar authorities have not permitted the Special Envoy of the Secretary-General for Myanmar to visit for over six months, or the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar to visit for almost twelve months, despite repeated requests;

(e) The continuing restrictions placed on the National League for Democracy and other political parties which prevented them from participating in the National Convention;

3. *Calls upon* the Government of Myanmar:

(a) To end the systematic violations of human rights in Myanmar, including extrajudicial killings, the use of torture, the use of rape and other forms of sexual violence persistently carried out by members of the armed forces, discrimination and violations suffered in particular by persons belonging to ethnic minorities,

[2] A/59/269.

[3] See A/59/311.

women and children and violations of the right to an adequate standard of living, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other government agents in all circumstances;

(b) To ensure that the next session of the National Convention is fully inclusive of all political parties and representatives and all major ethnic nationalities not represented by a political party and that participants are guaranteed freedom of association and freedom of expression, including freedom of the media and unlimited access to information for the people of Myanmar, and guarantees the safety of all participants;

(c) To restore democracy and respect the results of the 1990 elections by, inter alia, releasing immediately and unconditionally the leadership of the National League for Democracy, including Daw Aung San Suu Kyi, and members of the National League for Democracy detained on or after 30 May 2003, as well as other prisoners of conscience, and to cease the ongoing harassment of the National League for Democracy and other political parties and allow the reopening of the offices of the National League for Democracy throughout the country;

(d) To release immediately and unconditionally all detained or imprisoned political p[r]oners;

(e) To initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003, as called for by the General Assembly at its fifty-eighth session;

(f) To cooperate fully with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar in order to help bring Myanmar towards a transition to civilian rule and to ensure that they are both granted without further delay full, free and unimpeded access to Myanmar and that no person cooperating with the Special Envoy, the Special Rapporteur or any international organization is subjected to any form of intimidation, harassment or punishment, and to review as a matter of urgency the case of those undergoing punishment in this regard;

(g) To consider as a matter of high priority becoming a party to all relevant human rights instruments;

(h) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of Government, including the armed forces, to cooperate with the International Labour Organization, and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) of the International Labour Organization;

(i) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with recommendations of the Committee on the Rights of the Child[4]

[4] See CRC/C/15/Add.237.

(j) To end the policy of systematic enforced displacement of persons and other policies leading to displacement within Myanmar and refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(k) To immediately ensure safe and unhindered access to all parts of Myanmar of the United Nations and international humanitarian organizations so as to ensure the provision of humanitarian assistance and to guarantee that it reaches the most vulnerable groups of the population, including internally displaced persons and returnees;

(l) To pursue through dialogue and peaceful means an immediate end to conflict with all remaining ethnic groups with which ceasefire agreements have not yet been signed;

(m) To formulate a clear and detailed plan for the transition to democracy, which includes concrete timing and the involvement of all political groups and ethnic nationalities in a way that ensures the process is transparent and inclusive;

4. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar;

(b) To give all necessary assistance to enable his Special Envoy for Myanmar as well as to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar to discharge their mandate fully and effectively;

(c) To report to the General Assembly at its sixtieth session and to the Commission on Human Rights at its sixty-first session on the progress made in the implementation of the present resolution;

5. *Decides* to continue the consideration of this question at its sixtieth session.

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Fifty-ninth session
Third Committee
Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Islamic Republic of Iran

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other international human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in this field,

Mindful that the Islamic Republic of Iran is a party to the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the International Convention on the Elimination of All Forms of Racial Discrimination[3] and the Convention on the Rights of the Child,[4]

Recalling its previous resolutions on the subject, the most recent of which is resolution 58/195 of 22 December 2003, and recalling also Commission on Human Rights resolution 2001/17 of 20 April 2001,[5]

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[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] Resolution 2106 A (XX), annex.
[4] Resolution 44/25, annex.
[5] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

04-58889 (E) 041104

Noting the commitment made by the Government of the Islamic Republic of Iran to strengthen respect for human rights in the country and to promote the rule of law,

1. *Welcomes*:

(a) The open invitation extended by the Government of the Islamic Republic of Iran to all human rights thematic monitoring mechanisms in April 2002;

(b) The visit of the Working Group on Arbitrary Detention of the Commission on Human Rights to the Islamic Republic of Iran in February 2003 and its subsequent report;[6]

(c) The visit of the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression to the Islamic Republic of Iran in November 2003 and his subsequent report;[7]

(d) The visit of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants to the Islamic Republic of Iran in February 2004;

(e) The recommendation by the head of the judiciary of the Islamic Republic of Iran to judges in December 2002 that they choose alternative punishment in cases where the sentence of stoning would otherwise be imposed;

(f) The announcement by the head of the judiciary in April 2004 of the ban on torture and the subsequent passage of related legislation through the Parliament, which was approved by the Guardian Council in May 2004;

(g) The efforts of the elected Government to foster the growth of civil society;

(h) The holding of human rights dialogues between the Islamic Republic of Iran and a number of countries;

(i) The cooperation with United Nations agencies in developing programmes in the field of human rights, good governance and the rule of law;

2. *Expresses its serious concern at*:

(a) The continuing violations of human rights in the Islamic Republic of Iran;

(b) The worsening situation with regard to freedom of opinion and expression and freedom of the media, especially the increased persecution for the peaceful expression of political views, including arbitrary arrest and detention without charge or trial; crackdowns by the judiciary and security forces against journalists, parliamentarians, students, clerics and academics; the unjustified closure of newspapers and blocking of Internet sites; the targeted disqualification of large numbers of prospective candidates in the Majlis elections; and the intimidation and harassment of opposition activists in the run-up to the elections held in February 2004;

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[6] E/CN.4/2004/3/Add.2 and Corr.1.

[7] E/CN.4/2004/62/Add.2.

(c) The continuing executions in the absence of respect for internationally recognized safeguards, and in particular deplores the execution of persons below eighteen years of age, contrary to the obligations of the Islamic Republic of Iran under article 37 of the Convention on the Rights of the Child[4] and article 6 of the International Covenant on Civil and Political Rights,[2] and public executions;

(d) The use of torture and other forms of cruel, inhuman and degrading punishment, in particular the practice of amputation and flogging, noting in this context the rejection by the Guardian Council in August 2003 of the proposal of the elected parliament to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;[8]

(e) The continued restrictions on free assembly and forcible dissolution of political parties;

(f) The failure to comply fully with international standards in the administration of justice, the absence of due process of law, the refusal to provide fair and public hearings and right to counsel, the use of national security laws to deny the rights of the individual and the lack of respect for internationally recognized legal safeguards, inter alia, with respect to persons belonging to religious minorities, officially recognized or otherwise;

(g) The systemic discrimination against women and girls in law and in practice, despite some minor legislative improvements, and the refusal of the Guardian Council to take steps to address this systematic discrimination, noting in this context its rejection, in August 2003, of the proposal of the elected parliament to accede to the Convention on the Elimination of All Forms of Discrimination against Women;[9]

(h) The continuing discrimination against persons belonging to minorities, including Christians, Jews and Sunnis, and the increased discrimination against the Baha'is, including cases of arbitrary arrest and detention, the denial of free worship or of publicly carrying out communal affairs, the disregard of property rights, the destruction of sites of religious importance, the suspension of social, educational and community-related activities and the denial of access to higher education, employment, pensions and other benefits;

(i) The continuing persecution, including the systematic and arbitrary use of prolonged solitary confinement, and arbitrary sentencing to prison of human rights defenders, political opponents, religious dissenters and reformists;

(j) The postponement of the visit of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights to the Islamic Republic of Iran;

3. *Calls upon* the Government of the Islamic Republic of Iran:

(a) To abide by its obligations freely undertaken under the International Covenants on Human Rights[2] and other international human rights instruments, including provisions relating to freedom of opinion and expression, the use of torture and other forms of cruel, inhuman and degrading treatment or punishment, the promotion and protection of the human rights of women and girls and the rights

[8] Resolution 39/46, annex.

[9] Resolution 34/180, annex.

of the child, and to continue its efforts to consolidate respect for human rights and the rule of law;

(b) To implement the recommendations of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief;

(c) To cooperate with United Nations mechanisms, including by setting a date for a visit by the Working Group on Enforced or Involuntary Disappearances and to respond fully to their recommendations;

(d) To implement fully the ban on torture, announced in April 2004 by the head of the judiciary, and the related parliamentary legislation of May 2004;

(e) To expedite judicial reform, to guarantee the dignity of the individual and to ensure the full application of due process of law and fair and transparent procedures by an independent and impartial judiciary, and in this context to ensure respect for the rights of the defence and the equity of verdicts in all instances, including for members of religious minority groups, officially recognized or otherwise;

(f) To appoint an impartial prosecutor and to expedite the creation of offices of the Prosecutor in all provinces, in keeping with the decision taken in November 2002 for their re-establishment;

(g) To eliminate all forms of discrimination based on religious grounds or against persons belonging to minorities, including the Baha'is, Christians, Jews and Sunnis, and to address this matter in an open manner, with the full participation of the minorities themselves, and to ensure respect for the freedom of religion or belief of all persons;

(h) To end amputation and flogging and all other forms of punishment that are cruel, inhuman or degrading;

(i) To abolish the punishment of execution by stoning and, in the meantime, to end the practice of stoning as recommended by the head of the judiciary;

(j) To comply with its obligations under article 37 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights not to impose the sentence of death for offences committed by persons below eighteen years of age;

(k) To vigorously pursue penitentiary reform;

4. *Encourages* the thematic mechanisms of the Commission on Human Rights, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of religion or belief and the Special Representative of the Secretary-General on the situation of human rights defenders to visit the Islamic Republic of Iran, and encourages the Government of the Islamic Republic of Iran to cooperate with these special mechanisms and to respond fully to their subsequent recommendations;

5. *Decides* to continue its examination of the situation of human rights in the Islamic Republic of Iran at its sixtieth session, under the agenda item entitled "Human rights questions", in the light of additional elements provided by the Commission on Human Rights.

United Nations A/C.3/59/L.50*

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Agenda item 105 (c)
Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Islamic Republic of Iran

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other international human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in this field,

Mindful that the Islamic Republic of Iran is a party to the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the International Convention on the Elimination of All Forms of Racial Discrimination[3] and the Convention on the Rights of the Child,[4]

Recalling its previous resolutions on the subject, the most recent of which is resolution 58/195 of 22 December 2003, and recalling also Commission on Human Rights resolution 2001/17 of 20 April 2001,[5]

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* Reissued for technical reasons.

[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] Resolution 2106 A (XX), annex.

[4] Resolution 44/25, annex.

[5] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

04-58889* (E) 091104

Noting the commitment made by the Government of the Islamic Republic of Iran to strengthen respect for human rights in the country and to promote the rule of law,

1. *Welcomes*:

(a) The open invitation extended by the Government of the Islamic Republic of Iran to all human rights thematic monitoring mechanisms in April 2002;

(b) The visit of the Working Group on Arbitrary Detention of the Commission on Human Rights to the Islamic Republic of Iran in February 2003 and its subsequent report;[6]

(c) The visit of the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression to the Islamic Republic of Iran in November 2003 and his subsequent report;[7]

(d) The visit of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants to the Islamic Republic of Iran in February 2004;

(e) The recommendation by the head of the judiciary of the Islamic Republic of Iran to judges in December 2002 that they choose alternative punishment in cases where the sentence of stoning would otherwise be imposed;

(f) The announcement by the head of the judiciary in April 2004 of the ban on torture and the subsequent passage of related legislation by the Parliament, which was approved by the Guardian Council in May 2004;

(g) The efforts of the elected Government to foster the growth of civil society;

(h) The human rights dialogues between the Islamic Republic of Iran and a number of countries;

(i) The cooperation with United Nations agencies in developing programmes in the field of human rights, good governance and the rule of law;

2. *Expresses its serious concern at*:

(a) The continuing violations of human rights in the Islamic Republic of Iran;

(b) The worsening situation with regard to freedom of opinion and expression and freedom of the media, especially the increased persecution for the peaceful expression of political views, including arbitrary arrest and detention without charge or trial; crackdowns by the judiciary and security forces against journalists, parliamentarians, students, clerics and academics; the unjustified closure of newspapers and blocking of Internet sites; the targeted disqualification of large numbers of prospective candidates in the Majlis elections as well as the intimidation and harassment of opposition activists in the run-up to the elections held in February 2004;

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[6] E/CN.4/2004/3/Add.2 and Corr.1.

[7] E/CN.4/2004/62/Add.2.

(c) The continuing executions in the absence of respect for internationally recognized safeguards, and in particular deplores the execution of persons below eighteen years of age, contrary to the obligations of the Islamic Republic of Iran under article 37 of the Convention on the Rights of the Child[4] and article 6 of the International Covenant on Civil and Political Rights,[2] as well as public executions;

(d) The use of torture and other forms of cruel, inhuman and degrading punishment, in particular the practice of amputation and flogging, noting in this context the rejection by the Guardian Council in August 2003 of the proposal of the elected parliament to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;[8]

(e) The continued restrictions on free assembly and forcible dissolution of political parties;

(f) The failure to comply fully with international standards in the administration of justice, the absence of due process of law, the refusal to provide fair and public hearings and right to counsel, the use of national security laws to deny the rights of the individual and the lack of respect for internationally recognized legal safeguards, inter alia, with respect to persons belonging to religious minorities, officially recognized or otherwise;

(g) The systemic discrimination against women and girls in law and in practice, despite some minor legislative improvements, and the refusal of the Guardian Council to take steps to address this systematic discrimination, noting in this context its rejection, in August 2003, of the proposal of the elected parliament to accede to the Convention on the Elimination of All Forms of Discrimination against Women;[9]

(h) The continuing discrimination against persons belonging to minorities, including Christians, Jews and Sunnis, and the increased discrimination against the Baha'is, including cases of arbitrary arrest and detention, the denial of free worship or of publicly carrying out communal affairs, the disregard of property rights, the destruction of sites of religious importance, the suspension of social, educational and community-related activities and the denial of access to higher education, employment, pensions and other benefits;

(i) The continuing persecution, including through the systematic and arbitrary use of prolonged solitary confinement, and arbitrary sentencing to prison of human rights defenders, political opponents, religious dissenters and reformists;

(j) The postponement of the visit of the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights to the Islamic Republic of Iran;

3. *Calls upon* the Government of the Islamic Republic of Iran:

(a) To abide by its obligations freely undertaken under the International Covenants on Human Rights and other international human rights instruments, including provisions relating to freedom of opinion and expression, the use of torture and other forms of cruel, inhuman and degrading treatment or punishment, the promotion and protection of the human rights of women and girls and the rights

[8] Resolution 39/46, annex.

[9] Resolution 34/180, annex.

of the child, and to continue its efforts to consolidate respect for human rights and the rule of law;

(b) To implement the recommendations of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief;

(c) To cooperate with United Nations mechanisms, including by setting a date for a visit by the Working Group on Enforced or Involuntary Disappearances and to respond fully to their recommendations;

(d) To implement fully the ban on torture, announced in April 2004 by the head of the judiciary, and the related parliamentary legislation of May 2004;

(e) To expedite judicial reform, to guarantee the dignity of the individual and to ensure the full application of due process of law and fair and transparent procedures by an independent and impartial judiciary, and in this context to ensure respect for the rights of the defence and the equity of verdicts in all instances, including for members of religious minority groups, officially recognized or otherwise;

(f) To appoint an impartial prosecutor and to expedite the creation of offices of the Prosecutor in all provinces, in keeping with the decision taken in November 2002 for their re-establishment;

(g) To eliminate all forms of discrimination based on religious grounds or against persons belonging to minorities, including the Baha'is, Christians, Jews and Sunnis, and to address this matter in an open manner, with the full participation of the minorities themselves, and to ensure respect for the freedom of religion or belief of all persons;

(h) To end amputation and flogging and all other forms of punishment that are cruel, inhuman or degrading;

(i) To abolish the punishment of execution by stoning and, in the meantime, to end the practice of stoning as recommended by the head of the judiciary;

(j) To comply with its obligations under article 37 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights not to impose the sentence of death for offences committed by persons below eighteen years of age;

(k) To vigorously pursue penitentiary reform;

4. *Encourages* the thematic mechanisms of the Commission on Human Rights, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of religion or belief and the Special Representative of the Secretary-General on the situation of human rights defenders to visit the Islamic Republic of Iran, and encourages the Government of the Islamic Republic of Iran to cooperate with these special mechanisms and to respond fully to their subsequent recommendations;

5. *Decides* to continue its examination of the situation of human rights in the Islamic Republic of Iran at its sixtieth session, under the agenda item entitled "Human rights questions", in the light of additional elements provided by the Commission on Human Rights.

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Fifty-ninth session
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Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Burkina Faso, Chile, Cuba, Egypt, El Salvador, Mexico and Peru: draft resolution

Protection of migrants

The General Assembly,

Recalling its resolution 58/190 of 22 December 2003 and Commission on Human Rights resolution 2004/53 of 20 April 2004,[1]

Recalling also its resolution 40/144 of 13 December 1985, by which it approved the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live,

Reaffirming that the Universal Declaration of Human Rights[2] proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that every State party to the International Covenant on Civil and Political Rights[3] must ensure that the rights recognized in the Covenant are extended to all individuals within its territory and subject to its jurisdiction,

Bearing in mind that every State party to the International Covenant on Economic, Social and Cultural Rights[3] has undertaken to guarantee the exercise of all rights enunciated in that Covenant without discrimination of any kind, including, in particular, on the basis of national origin,

[1] To be issued in *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.
[2] Resolution 217 A (III).
[3] Resolution 2200 A (XXI), annex.

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Reaffirming the provisions concerning migrants adopted by the World Conference on Human Rights,[4] the International Conference on Population and Development,[5] the World Summit for Social Development[6] and the Fourth World Conference on Women,[7]

Reaffirming also the provisions on the human rights of migrants contained in the Durban Declaration and Programme of Action,[8] adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001, and expressing its satisfaction at the important recommendations made for the development of international and national strategies for the protection of migrants and for the design of migration policies that fully respect the human rights of migrants and members of their families,

Welcoming the renewed commitment made in the United Nations Millennium Declaration[9] to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies,

Welcoming also the report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants,[10] as well as the conclusions and recommendations contained therein,

Taking note of advisory opinion OC-16/99, issued by the Inter-American Court of Human Rights on 1 October 1999, on The Right to Information on Consular Assistance in the Framework of the guarantees of the Due Process of Law, in the case of foreign nationals detained by the authorities of a receiving State,

Taking note also of the Judgment of the International Court of Justice of 31 March 2004 in the case concerning *Avena and Other Mexican Nationals*,[11] in which the Court, inter alia, concluded that there was a duty on the part of the arresting authorities to give the information provided for in article 36 of the Vienna Convention on Consular Relations of 1963[12] to an arrested person as soon as it is realized that the person is a foreign national, or once there are grounds to think that the person is probably a foreign national,

Taking note further of Advisory Opinion OC-18/03, issued by the Inter-American Court of Human Rights on 17 September 2003, on the juridical condition and rights of undocumented migrants, in which the Court concluded, inter alia, that States may not subordinate or condition observance of the principle of equality

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[4] See A/CONF.157/24 (Part I), chap. III.

[5] See *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

[6] See *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annexes I and II.

[7] See *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[8] See A/CONF.189/12 and Corr.1, chap. I.

[9] See resolution 55/2.

[10] E/CN.4/2004/76 and Add.1-4.

[11] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 4* (A/59/4), chap. V, sect. A, No. 23.

[12] United Nations, *Treaty Series*, vol. 596, No. 8638.

before the law and non-discrimination to achieving their public policy goals, whatever they may be, including those concerning migrants,

Aware of the increasing number of migrants worldwide, and bearing in mind the situation of vulnerability in which migrants and their families frequently find themselves, owing, inter alia, to their absence from their States of origin and to the difficulties they encounter because of differences of language, custom and culture, as well as the economic and social difficulties and obstacles to the return to their States of origin of migrants who are non-documented or in an irregular situation,

Recognizing the positive contributions that migrants frequently make, including through their eventual integration into their host society, and the efforts that some host countries undertake to integrate migrants and their families,

Underlining the importance of the creation of conditions that foster greater harmony, tolerance and respect between migrants and the rest of society in the States in which they reside in order to eliminate manifestations of racism and xenophobia against migrants and members of their families,

Encouraged by the increasing interest of the international community in the effective and full protection of the human rights of all migrants, and underlining the need to make further efforts to ensure respect for the human rights and fundamental freedoms of all migrants,

Bearing in mind the need for a focused and consistent approach towards migrants as a specific vulnerable group, in particular migrant women and children,

Resolving to ensure respect for the human rights and fundamental freedoms of all migrants,

1. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, and urges States to apply the existing laws when xenophobic or intolerant acts or manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

2. *Also strongly condemns* all forms of racial discrimination and xenophobia related to access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public, and welcomes the active role played by governmental and non-governmental organizations in combating racism and xenophobia and in assisting individual victims of racist acts, including migrant victims;

3. *Requests* all Member States, in conformity with their respective constitutional systems, effectively to promote and protect the human rights of all migrants, in conformity with the Universal Declaration of Human Rights[2] and the international instruments to which they are party, which may include the International Covenants on Human Rights,[3] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[13] the International Convention on the Elimination of All Forms of Racial Discrimination,[14] the International Convention on the Protection of the Rights of All Migrant Workers and

[13] Resolution 39/46, annex.

[14] Resolution 2106 A (XX), annex.

Members of Their Families,[15] the Convention on the Elimination of All Forms of Discrimination against Women,[16] the Convention on the Rights of the Child[17] and other relevant international human rights instruments, norms and standards;

4. *Welcomes* the growing number of signatures and ratifications or accessions to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and calls upon States that have not done so to consider urgently signing and ratifying or acceding to the Convention;

5. *Also welcomes* the entry into force of the United Nations Convention against Transnational Organized Crime[18] and the Protocols thereto, namely, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, and calls upon States that have not done so to consider urgently signing and ratifying or acceding to them;

6. *Reaffirms emphatically* the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations, in particular with regard to the right of all foreign nationals to communicate with a consular official of the sending State in the case of any form of imprisonment, custody or detention, and the obligation of the receiving State to inform without delay the foreign national of the rights accorded to him or her under the Convention;

7. *Calls upon* States to implement fully the commitments and recommendations relating to the promotion and protection of the human rights of migrants contained in the Durban Declaration and Programme of Action,[5] through, inter alia, the adoption of national plans of action as recommended by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

8. *Calls upon* all States to consider reviewing and, where necessary, revising immigration policies with a view to eliminating all discriminatory practices against migrants and their families, and to provide specialized training for government policy-making, law enforcement, migration and other concerned officials, including in cooperation with non-governmental organizations and civil society, thus underlining the importance of effective action to create conditions that foster greater harmony and tolerance within societies;

9. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious and tolerant environment, and encourages States to consider the possibility of adopting these types of programmes;

10. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, firmly to prosecute violations of labour law with regard to the conditions of work of migrant workers, including those related to, inter alia, their remuneration and the conditions of health and safety at work;

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[15] Resolution 45/158, annex.
[16] Resolution 34/180, annex.
[17] Resolution 44/25, annex.
[18] Resolution 55/25, annex I.

11. *Encourages* all States to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

12. *Urges* all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants, including by individuals or groups;

13. *Calls upon* States to observe national legislation and applicable international legal instruments to which they are party when enacting national security measures, in order to respect the human rights of migrants;

14. *Requests* States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants and their families respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants and their families, such as arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

15. *Encourages* Member States that have not yet done so to enact domestic legislation and to take further effective measures to combat the international trafficking and smuggling of migrants, which should take into account, in particular, trafficking and smuggling that endangers the lives of migrants or includes different forms of servitude or exploitation, such as any form of debt bondage, slavery, sexual exploitation or forced labour, and also encourages them to strengthen international cooperation to combat such trafficking and smuggling;

16. *Encourages* States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration so as to enable everyone, in particular w. nen, to make informed decisions and to prevent them from becoming victims of trafficking and utilizing dangerous means of access that put their lives and physical integrity at risk;

17. *Calls upon* States to facilitate family reunification in an expeditious and effective manner, with due regard to applicable laws, as such reunification has a positive effect on the integration of migrants;

18. *Calls upon* all States to protect all human rights of migrant children, in particular unaccompanied migrant children, ensuring that the best interests of the children are a primary consideration, underlines the importance of reuniting them with their parents, when possible, and encourages the relevant United Nations bodies, within the framework of their respective mandates, to pay special attention to the conditions of migrant children in all States and, where necessary, to put forward recommendations for strengthening their protection;

19. *Encourages* States of origin to promote and protect the human rights of those families of migrant workers which remain in the countries of origin, paying particular attention to children and adolescents whose parents have emigrated, and encourages international organizations to consider supporting States in this regard;

20. *Also encourages* States to consider participating in international and regional dialogues on migration that include countries of origin and destination, as well as countries of transit, and invites them to consider negotiating bilateral and regional agreements on migrant workers within the framework of applicable human rights law and designing and implementing programmes with States of other regions to protect the rights of migrants;

21. *Requests* all Governments to cooperate fully with the Special Rapporteur of the Commission on Human Rights on the human rights of migrants in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to her urgent appeals to seriously consider inviting her to visit their countries, and welcomes in this regard the invitations extended to the Special Rapporteur by some Member States to visit them;

22. *Encourages* States to take the necessary measures for the effective implementation of the conclusions and recommendations contained in the report of the Special Rapporteur;[18]

23. *Calls upon* States and intergovernmental and non-governmental organizations to observe, on 18 December of each year, International Migrants Day, proclaimed by the General Assembly,[19] through, inter alia, the dissemination of information on the human rights and fundamental freedoms of migrants and on their economic, social and cultural contributions to their host and home countries, the sharing of experience and the design of actions to ensure their protection, and to promote greater harmony between migrants and the societies in which they live;

24. *Requests* the Secretary-General to submit to the General Assembly at its sixtieth session a report on the implementation of the present resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms", and requests the Special Rapporteur to submit to the Assembly at its sixtieth session an interim report on the fulfilment of her mandate;

25. *Decides* to examine this question further, as a matter of priority, at its sixtieth session under the same agenda item.

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[19] See resolution 55/93.

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Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Algeria, Azerbaijan, Belarus, Bhutan, Burundi, Cameroon, Central African Republic, China, Colombia, Congo, Cuba, Ethiopia, Fiji, Guinea-Bissau, India, Indonesia, Kazakhstan, Madagascar, Nigeria, Pakistan, Philippines, Republic of Moldova, Russian Federation, Senegal, Swaziland, Switzerland, Tunisia, United Republic of Tanzania, Venezuela, Viet Nam and Zimbabwe: draft resolution

Human rights and terrorism

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations[2] and the International Covenants on Human Rights,[3]

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,[4] as well as the Declaration on Measures to Eliminate International Terrorism,[5]

Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[6] in which the Conference reaffirmed that the acts, methods and practices of terrorism in all its forms and manifestations, as well as its linkage in some countries to drug trafficking, are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity and the security of States and destabilizing legitimately constituted Governments, and that the international

[1] Resolution 217 A (III).
[2] Resolution 2625 (XXV), annex.
[3] Resolution 2200 A (XXI), annex.
[4] See resolution 50/6.
[5] Resolution 49/60, annex.
[6] A/CONF.157/24 (Part I), chap. III.

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community should take the necessary steps to enhance cooperation to prevent and combat terrorism,

Recalling further the United Nations Millennium Declaration adopted by the General Assembly,[7]

Recalling, in this regard, the reference in the report of the Secretary-General on the implementation of the Millennium Declaration to the fact that terrorism itself is a violation of human rights and must be combated as such and that efforts at combating it must be pursued, however, in full compliance with established international norms,[8]

Recalling also its resolutions 48/122 of 20 December 1993, 49/185 of 23 December 1994, 50/186 of 22 December 1995, 52/133 of 12 December 1997, 54/109 and 54/110 of 9 December 1999, 54/164 of 17 December 1999, 55/158 of 12 December 2000, 56/160 of 19 December 2001, 57/219 and 57/220 of 18 December 2002 and 58/174 of 22 December 2003,

Recalling in particular that, in its resolution 52/133, it requested the Secretary-General to seek the views of Member States on the implications of terrorism in all its forms and manifestations for the full enjoyment of human rights and fundamental freedoms,

Recalling previous resolutions of the Commission on Human Rights on the issue of human rights and terrorism, as well as on hostage-taking,

Bearing in mind all other relevant General Assembly resolutions,

Bearing in mind also relevant Security Council resolutions,

Aware that, at the dawn of the twenty-first century, the world is witness to historic and far-reaching transformations, in the course of which forces of aggressive nationalism and religious and ethnic extremism continue to produce fresh challenges,

Alarmed that acts of terrorism in all its forms and manifestations aimed at the destruction of human rights have continued despite national and international efforts,

Convinced that terrorism in all its forms and manifestations, wherever and by whomever committed, can never be justified in any instance, including as a means to promote and protect human rights,

Concerned that, despite the efforts of the international community, acts of hostage-taking in different forms and manifestations, inter alia, committed by terrorists and armed groups, continue to take place and have even increased in many regions of the world,

Bearing in mind that the right to life is the basic human right, without which a human being can exercise no other right,

Bearing in mind also that terrorism creates an environment that destroys the right of people to live in freedom from fear,

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[7] See resolution 55/2.

[8] See A/58/323, para. 28.

Reiterating that all States have an obligation to promote and protect all human rights and fundamental freedoms and to ensure effective implementation of their obligations under international law,

Seriously concerned about the gross violations of human rights perpetrated by terrorist groups,

Expressing its deepest sympathy and condolences to all the victims of terrorism and their families,

Alarmed in particular at the possibility that terrorist groups may exploit new technologies to facilitate acts of terrorism, which may cause massive damage, including huge loss of human life,

Emphasizing the need to intensify the fight against terrorism at the national level, to enhance effective international cooperation in combating terrorism in conformity with international law, including relevant State obligations under international human rights and international humanitarian law, and to strengthen the role of the United Nations in this respect,

Emphasizing also that States shall deny safe haven to those who finance, plan, support or commit terrorist acts or provide safe havens,

Reaffirming that all measures to counter terrorism must be in strict conformity with international law, including international human rights standards and obligations,

Mindful of the need to protect the human rights of and guarantees for the individual in accordance with the relevant human rights principles and instruments, in particular the right to life,

Noting the growing consciousness within the international community of the negative effects of terrorism in all its forms and manifestations on the full enjoyment of human rights and fundamental freedoms and on the establishment of the rule of law and democratic freedoms as enshrined in the Charter of the United Nations and the International Covenants on Human Rights,

Concerned by the tendencies to link terrorism and violence with religion,

Noting the developments that have occurred since its fifty-eighth session, on addressing the issue of human rights and terrorism at the national, regional and international levels,

1. *Reiterates its unequivocal condemnation* of the acts, methods and practices of terrorism in all its forms and manifestations as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences for the economic and social development of States;

2. *Strongly condemns* the violations of the right to life, liberty and security;

3. *Rejects* the identification of terrorism with any religion, nationality or culture;

4. *Profoundly deplores* the increasing number of innocent persons, including women, children and the elderly, killed, massacred and maimed by

terrorists in indiscriminate and random acts of violence and terror, which cannot be justified in any circumstances;

5. *Expresses its solidarity* with the victims of terrorism;

6. *Reaffirms* the decision of the heads of State and Government, as contained in the United Nations Millennium Declaration,[7] to take concerted action against international terrorism and to accede as soon as possible to all the relevant regional and international conventions;

7. *Urges* the international community to enhance cooperation at the regional and international levels in the fight against terrorism in all its forms and manifestations, in accordance with relevant international instruments, including those relating to human rights, with the aim of its eradication;

8. *Calls upon* States to take all necessary and effective measures, in accordance with relevant provisions of international law, including international human rights standards, to prevent, combat and eliminate terrorism in all its forms and manifestations, wherever and by whomever it is committed, and also calls upon States to strengthen, where appropriate, their legislation to combat terrorism in all its forms and manifestations;

9. *Urges* all States to deny safe haven to terrorists;

10. *Calls upon* States to take appropriate measures, in conformity with relevant provisions of national and international law, including international human rights standards, before granting refugee status, for the purpose of ensuring that an asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts, including assassinations, and to ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

11. *Urges* States and the Office of the United Nations High Commissioner for Refugees to review, with full respect for legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light which indicates that the person in question has planned, facilitated or participated in the commission of terrorist acts;

12. *Condemns* the incitement to ethnic hatred, violence and terrorism;

13. *Stresses* that every person, regardless of nationality, race, sex, religion or any other distinction, has a right to protection from terrorism and terrorist acts;

14. *Expresses concern* about the growing connection between terrorist groups and other criminal organizations engaged in the illegal traffic in arms and drugs at the national and international levels, as well as the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, the taking of hostages and robbery, and requests the relevant United Nations bodies to continue to give special attention to this question;

15. *Requests* the Secretary-General to continue to seek the views of Member States on the implications of terrorism in all its forms and manifestations for the full enjoyment of all human rights and fundamental freedoms and on the possible establishment of a voluntary fund for the victims of terrorism, as well as on ways and means to rehabilitate the victims of terrorism and to reintegrate them into

society, with a view to incorporating his findings in his report to the General Assembly;

16. *Takes note* of the work of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of terrorism and the final report of the Special Rapporteur on terrorism and human rights;[9]

17. *Requests* the Office of the United Nations High Commissioner for Human Rights, in the course of the examination of the question and in the conduct of any study on terrorism that may be mandated, and in its activities relating to the issue of terrorism, to adopt a comprehensive approach, in particular, by giving full and equal attention to the issues raised in the present resolution with relation to the grave impact of terrorism on the enjoyment of human rights of individuals;

18. *Decides* to consider this question at its sixtieth session, under the item entitled "Human rights questions".

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[9] E/CN.4/Sub.2/2004/40.

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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Turkmenistan

The General Assembly,

Reaffirming that all States Members of the United Nations have the obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations that they have undertaken under the various international instruments in this field,

Recalling its resolution 58/194 of 22 December 2003,

1. *Welcomes*:

(a) The limited increase in the ability of members of certain religious minority groups, including the Bahá'í faith, the Baptist church, the Hare Krishna movement and the Seventh-day Adventist church, to practise their religion;

(b) The release in June 2004 of a number of Jehovah's Witnesses who had made conscientious objections to undertaking military service, but noting with concern that other Jehovah's Witnesses continue to be jailed on the same charge;

(c) The comments of President Saparmurat Niyazov in May 2004 that interested representatives of the international community were welcome to visit Turkmen prisons, and noting with satisfaction that the Government of Turkmenistan has begun preliminary discussions with representatives of the International Committee of the Red Cross regarding prison access;

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(d) That the Personal Envoy of the Chairman-in-Office of the Organization for Security and Cooperation in Europe for Participating States in Central Asia, has been given the opportunity for further dialogue with the Government of Turkmenistan and expresses the hope that a constructive dialogue on human rights issues is to be continued soon;

(e) The submission of the national report under the International Convention on the Elimination of All Forms of Racial Discrimination[1] to the Committee on the Elimination of Racial Discrimination, and encourages the Government of Turkmenistan also to submit the reports due under the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women;

2. *Expresses its grave concern* at the continuing and serious human rights violations occurring in Turkmenistan, in particular:

(a) The persistence of a governmental policy based on the repression of all political opposition activities;

(b) The continuing abuse of the legal system through arbitrary detentions, imprisonment and surveillance of persons who try to exercise their freedoms of expression, assembly and association, and by harassment of their families;

(c) Further restrictions on the freedom of expression and opinion, including the loss of local retransmissions of Russian language programmes on Radio Mayak, and serious harassment endured by local correspondents and collaborators of Radio Liberty;

(d) Continued restrictions on the exercise of the freedoms of thought, conscience, religion and belief;

(e) Continued discrimination by the Government of Turkmenistan against ethnic Russian, Uzbek and other minorities in the fields of education, employment and forced displacement, despite assurances by the Government that it will stop this discrimination;

(f) Continued constraints faced by civil society organizations, including the application of the restrictive provisions contained in the 2003 Law on Public Associations and slow progress in the registration of non-governmental organizations under the procedures set out in this Law;

3. *Regrets* the decision of the Government of Turkmenistan not to renew the accreditation for the Head of the Centre of the Organization for Security and Cooperation in Europe at Ashgabat, but hopes that the Turkmen authorities will cooperate fully with her successor;

4. *Calls upon* the Government of Turkmenistan:

(a) To ensure full respect for all human rights and fundamental freedoms and, in this regard, implement fully the measures set out in Commission on Human Rights resolutions 2003/11[2] and 2004/12;[3]

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[1] Resolution 2106 A (XX), annex.

[2] See *Official Records of the Economic and Social Council, 2003, Supplement No. 3* (E/2003/23), chap. II, sect. A.

[3] Ibid., *2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.

(b) To work closely with the Office of the United Nations High Commissioner for Human Rights with regard to the areas of concern and to cooperate fully with all the mechanisms of the Commission on Human Rights and all the relevant United Nations treaty bodies;

(c) To implement fully the recommendations outlined in the report of the Rapporteur of the Moscow Mechanism of the Organization for Security and Cooperation in Europe and to work constructively with the various institutions of the organization, in particular following the visit of the Personal Envoy of the Chairman-in-Office of the Organization for Participating States in Central Asia, to work towards implementation of those recommendations and to extend an invitation to the High Commissioner on National Minorities of the organization to visit the country;

(d) To release immediately and unconditionally all prisoners of conscience;

(e) To give real substance to the May 2004 offer of President Saparmurat Niyazov for interested representatives of the international community to visit Turkmen prisons by providing appropriate independent bodies, including the International Committee of the Red Cross, with full access to all places of detention in accordance with the usual modalities for those organizations and ensuring that lawyers and relatives have full and repeated access to all those in detention, including those convicted of involvement in the attempted coup d'état of 25 November 2002;

(f) To ensure that the forthcoming parliamentary elections will be held consistent with the commitments of the Organization for Security and Cooperation in Europe and other international standards for democratic elections;

(g) To remove the restrictions on the activities of public associations, including non-governmental organizations, and to enable those organizations, in particular human rights organizations, and other civil society actors to carry out their activities without hindrance;

5. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its sixtieth session.

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General Assembly

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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in the Democratic Republic of the Congo

The General Assembly,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms, and the duty to fulfil the obligations they have undertaken under the various instruments in this field,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Recalling all its previous resolutions, as well as those of the Commission of Human Rights, on the situation of human rights in the Democratic Republic of the Congo,

Noting the special report of the Secretary-General on the events in Ituri between January 2002 and December 2003[1] that was drafted by the Human Rights and Child Protection Sections of the United Nations Organization Mission in the Democratic Republic of the Congo,

[1] S/2004/573.

Recalling Security Council resolutions 1493 (2003) of 28 July 2003, 1522 (2004) of 15 January 2004, 1533 (2004) of 12 March 2004 and 1565 (2004) of 1 October 2004,

1. *Welcomes*:

(a) The nomination of the independent expert on the situation of human rights in the Democratic Republic of the Congo in July 2004, as well as his visit to the Democratic Republic of the Congo in August 2004;

(b) In particular the extended mandate of the United Nations Mission in the Democratic Republic of the Congo regarding the promotion and the protection of human rights in accordance with Security Council resolution 1565 (2004);

(c) The work accomplished by the human rights field office in the Democratic Republic of the Congo and encourages the office to pursue and enhance its cooperation with the relevant agencies of the United Nations and the United Nations Organization Mission in the Democratic Republic of the Congo in the fulfilment of its mandate;

(d) The measures taken by the transitional institutions in order to implement the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo signed in Pretoria on 17 December 2002 and to restore the authority of the State, such as the appointment of provincial governors, the establishment of the Independent Electoral Commission, the forthcoming adoption of the nationality law, the appointment of the High Command of the Integrated National Police and the setting up of the Supreme Defence Council;

2. *Supports* the work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and of the United Nations Organization Mission in the Democratic Republic of the Congo;

3. *Calls upon* the United Nations High Commissioner for Human Rights to keep it informed of the consultations between her Office and the Secretary-General concerning the ways in which to assist the transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity;

4. *Takes note* of the decision by the Office of the Prosecutor of the International Criminal Court, based upon the referral of the Democratic Republic of the Congo, to commence an investigation into crimes allegedly committed in the territory of the Democratic Republic of the Congo since the entry into force of the Rome Statute of the International Criminal Court[2] on 1 July 2002;

5. *Condemns*:

(a) The continuing violations of human rights and international humanitarian law in the Democratic Republic of the Congo. The General Assembly is concerned about the prevalence of grave violations and the rise in ethnic tensions throughout the Democratic Republic of the Congo and, in particular, in Ituri, North and South Kivu and other areas in the eastern part of the country;

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[2] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

(b) The lack of fair trial and due process guarantees for many detainees and defendants in the Democratic Republic of the Congo;

6. *Urges* all parties to the conflict in the Democratic Republic of the Congo:

(a) To respect and further implement the Global and All-Inclusive agreement;

(b) To adhere fully to the Principles on Good-Neighbourly Relations and Cooperation between the Democratic Republic of the Congo and Burundi, Rwanda and Uganda[3] signed in New York on 25 September 2003, to engage firmly for the full success of the joint verification mechanism agreed upon by the Presidents of the Democratic Republic of the Congo and Rwanda in Abuja on 25 June 2004,[4] and to take part constructively in the upcoming International Conference on Peace, Security, Democracy and Development in the Great Lakes Region of Africa;

(c) To cease immediately all military activity that impedes the consolidation of the sovereignty, unity and territorial integrity of the Democratic Republic of the Congo, including support for the armed groups allied to the parties to the conflict;

(d) To support the transitional Government and its institutions in order to allow for the re-establishment of political and economic stability and for the gradual reinforcement of state structures over the entire territory of the Democratic Republic of the Congo, in accordance with their obligations under the Transitional Constitution;

(e) To put an immediate end to the recruitment and use of child soldiers, which is contrary to international law and to the African Charter on the Rights and Welfare of the Child,[5] with the understanding that, under the Convention on the Rights of the Child[6] and the Optional Protocol thereto on the involvement of children in armed conflict,[7] persons under the age of 18 are entitled to special protection, and in accordance with Security Council resolution 1539 (2004) of 22 April 2004 on children and armed conflict, and to provide information without delay on measures taken to discontinue such practices;

(f) To take special measures to protect women and children from the appalling violence, including sexual violence, which has been and continues to be prevalent throughout the country, in particular in Ituri, North and South Kivu and other areas in the eastern part of the country, and condemns in particular the widespread use of sexual violence as a means of warfare;

(g) To promote the full enjoyment of all human rights by women and children and to meet the special needs of women and girls in post-conflict reconstruction, as well as to ensure the full participation of women in all aspects of conflict resolution and peace processes, including peacekeeping, conflict management and peace-building, as a matter of priority, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security;

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[3] See A/58/428-S/2003/983, annex.

[4] See S/2004/534, annex.

[5] *Human Rights: A Compilation of International Instruments*, vol. II: *Regional Instruments* (United Nations publication, Sales No. E.97.XIV.1), sect. C, No. 39.

[6] Resolution 44/25, annex.

[7] Resolution 54/263, annex I.

(h) To ensure the rights and well-being of internally displaced persons, returnees and refugee populations;

(i) To respect international humanitarian law, in particular the protection of civilians by ensuring the safety, security and freedom of movement of all civilians and United Nations and associated personnel, and the unhindered access of humanitarian personnel to all of the affected population throughout the territory of the Democratic Republic of the Congo in accordance with Security Council resolutions 1265 (1999) and 1296 (2000);

(j) To promote the full enjoyment of all human rights and to protect the safety, security and freedom of movement of all human rights defenders;

7. *Calls upon* the Government of National Unity and Transition to take specific measures:

(a) To achieve the objectives of the transitional period as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels enabling the establishment of a democratic constitutional regime, and the formation of a restructured and integrated national army; and also the formation of an integrated and adequately resourced national police force;

(b) To strengthen the transitional institutions, in particular to set up effectively the Independent Electoral Commission, the Truth and Reconciliation Commission and the Human Rights Monitoring Centre, and to re-establish stability and the rule of law over the entire territory of the Democratic Republic of the Congo, thereby returning peace and progress to its people;

(c) To comply fully with its obligations under international human rights instruments and, accordingly, to continue to cooperate with United Nations mechanisms for the protection of human rights and further strengthen its cooperation with the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo;

(d) To carry out urgently a comprehensive reform of the judicial system;

(e) To reinstate the moratorium on capital punishment, especially for juvenile offenders, and adhere to its commitment to progressively abolish the death penalty;

(f) To put an end to impunity and to ensure as it is duty-bound to do that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process;

(g) To cooperate with the International Criminal Court and to continue to cooperate with the International Tribunal for Rwanda;

(h) To prevent the use of the media to incite hatred or tensions among communities, while respecting freedom of expression and of the press;

(i) To continue its programme to demobilize, disarm and reintegrate former combatants, taking into account the special needs of women and children, including girls, associated with those combatants;

(j) To put an end to the illegal exploitation of the national resources of the Democratic Republic of the Congo, in view of the link between that exploitation and the continuation of that conflict;

8. *Decides* to continue to examine the situation of human rights in the Democratic Republic of the Congo and requests the independent expert on the situation of human rights in the Democratic Republic of the Congo to report to the General Assembly at its sixtieth session.